

KENTUCKY DEPARTMENT OF EDUCATION

STAFF NOTE

Action/Discussion Item:

Kenton County Board of Education's request for waiver from the requirements of 702 KAR 7:125, Section 12(2)

Applicable Statute(s) or Regulation(s):

KRS 156.160(2), KRS 158.030, KRS 158.031, 702 KAR 7:125

Action Requested:

Should the Kentucky Board of Education approve a waiver from the requirements of 702 KAR 7:125, Section 12(2), as requested by the Kenton County Board of Education?

History/Background:

Existing Policy. KRS 158.030 states that any child who will be six years of age by October 1, shall attend school or qualify for an exemption. It further states that any child who will be five years of age by October 1 may enter the primary program. 702 KAR 7:125, Section 12, states that a school district will receive no funding for a student who is not five by October 1 but is enrolled in the entry level of the primary program. This section also states that a school district will receive no funding for a student who is not six years of age by October 1 but is enrolled in the second level of the primary program.

KRS 158.031 establishes the critical attributes of the primary school program. Among those attributes are developmentally appropriate practices, multi-age and multi-ability classrooms, and continuous progress. This statute further states that "implementation of the primary program may take into consideration the necessary arrangements required for students attending part-time and will allow for grouping of students attending their first year of school when determined to be developmentally appropriate."

The Kenton County Board of Education adopted a policy that allows early entry enrollment in the entry-level primary program and second level primary program that would allow students to enroll if their birth date is between October 2nd and December 31st. According to the adopted policy, the district requires reimbursement for the cost of educating early entry students (see attached). In the attached letter from Superintendent Susan Cook, dated July 14, the Kenton County Board of Education desires to receive full funding for two students meeting the criteria for early entry based on the instructional services provided rather than the age requirements as stated in 702 KAR 7:125. One of these students completed a private, non-graded Montessori program; the other attended a public school kindergarten program. Both met the academic criteria for first grade. Since the students are only age 5, the state SEEK reimbursement would be provided for half-day funding. However, the students will require a full-day program to benefit from the full-day primary curriculum.

Note, however, that the actual waiver request in the July 14 letter goes beyond the two students and Kenton County is asking for a waiver from 702 KAR 7:125, Section 12(2) to "...request the appropriate funding to ensure this practice is afforded to ALL students who meet the eligibility criteria..." Staff recommends that a case by case waiver be considered but advises against a blanket one for "ALL" students meeting the local eligibility criteria.

An important applicable limitation is that the General Assembly by law requires a one-half day program for kindergarten-aged children and funds only a half-day program for these children. The General Assembly has not appropriated sufficient funds to fund from the state level all-day school for kindergarten-aged children. To grant a blanket waiver would set precedent for blanket waiver requests from other districts that, in effect, would be granting state funding for a full-day education for kindergarten children. The state simply has not been appropriated the funds to do this. Some school districts provide all-day kindergarten, funding half of it with local funds. Some districts use local funds to provide a full-day education for five- and six-year-old children for whom that is academically appropriate. Districts should continue to provide a developmentally appropriate education for all children, regardless of funding source. To clarify, this waiver request is about seeking additional state funding; it is not about whether the full-day educational services should be offered when developmentally appropriate.

The primary school program (KRS 158.031) assumes that there will be developmentally appropriate and multiage and multi-ability grouping throughout the day, but for kindergarten-aged students, KRS 158.030 presumes instruction will occur within half of the day. Strict adherence to the age qualification provisions of this section is called for, absent a transfer from an out-of-state situation.

Therefore, it appears if a student having completed a kindergarten program were to transfer from out-of-state, it would be acceptable to enroll in first grade and receive full-day SEEK funding, but students having completed kindergarten programs within Kentucky would not be eligible for full-day SEEK reimbursement. There is no statute to regulate when students can begin private school kindergarten programs, so the developmentally appropriate activities for these children when coming to public school would be determined by age instead of following the intent of the primary school program.

Staff Recommendation(s) and Rationale(s):

Staff recommends that the KBE approve the request for the waiver for only the two students who currently qualify. This will ensure these students are given the opportunity to achieve their full potential in the upcoming school year.

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